

From: [Craig Ziady](#)
To: [Casey, Carolyn](#)
Cc: bhoskins@flassociates.com; [Steve Drohosky](#); [Wainberg, Daniel](#); [Zucker, Audrey](#)
Subject: RE: sampling results letter
Date: Wednesday, June 06, 2018 5:35:59 PM

Carolyn – Thanks for your email. For obvious reasons, it is frustrating to read that EPA “did not necessarily need a response to comments” when a prior email in the very same thread notified us that EPA would not respond to our May 8 proposed letter to daycare owners *until we responded to your May 16 comments*. In that same email, we were asked specifically when EPA “can expect . . . responses” to your comments. We spent hours preparing responses to the comments because EPA expressly asked for them. It is neither productive, efficient, nor fair for us to have expended that time and money on a task EPA requested, only to have EPA, upon receipt of the responses, disavow the request.

Even more problematic is our apparent disagreement on vapor intrusion in general. Although we cannot quite discern if EPA’s disagreement is grounded in the science or the text of the report, the parties’ apparently contradictory opinions present as a showstopper. Would EPA prefer that we rewrite the conclusion as, “there is no evidence of significant vapor intrusion in the sampled building areas”? Such a statement is readily defensible based on the data we have collected thus far. We have successfully demonstrated that significant vapor intrusion (both from the physical aspect and in combination with risk assessment screening) is not occurring based on the evaluation process in MassDEP’s vapor intrusion policy. If EPA disagrees with this conclusion, then a further discussion is warranted, so we can understand the factual bases for EPA’s conclusion. Until such discussion takes place (if it is necessary) and the issue is resolved, I respectfully submit that there is no value in rewriting, revising, and resubmitting the schedule, the proposed letters, or the progress report.

If you believe that a conference call would be helpful to discuss these issues further, please let me know.

Thanks

Craig

Craig J. Ziady
General Counsel
Cummings Properties, LLC
200 West Cummings Park
Woburn, MA 01801
Direct dial: 781-932-7034
Main No.: 781-935-8000
www.cummings.com

The information contained in this message may be privileged, confidential, and/or protected from disclosure. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by replying to the message and deleting it (and all attachments) from your computer.

From: Casey, Carolyn [<mailto:Casey.Carolyn@epa.gov>]
Sent: Wednesday, May 30, 2018 4:43 PM
To: Craig Ziady

Cc: bhoskins@fslassociates.com; Steve Drohosky; Wainberg, Daniel; Zucker, Audrey
Subject: FW: sampling results letter

Craig, This is in response to the questions you raise in your email to Audrey below regarding the letter to school/daycare facilities.

We did not necessarily need a response to comments. What we needed were EPA's comments addressed by making the appropriate corrections, explanations and/or clarifications in a revised progress report. Although we don't typically find the need to review and comment on progress reports, we are using these reports to summarize data and provide documentation to schools/daycare-facilities and parents about vapor intrusion and any potential risk; therefore, the progress reports should contain accurate information, and the progress report and letters should provide consistent information and conclusions.

Are there any plans to at least run MassDEP RA Shortforms (if appropriate for this site) for each suite so that any potential for risk, or lack thereof, can be communicated in these letters as well?

We are not in agreement with your statement in the letter to the school/daycare facilities that "there is no evidence of potential vapor intrusion in the sampled building areas." I appreciate the effort in the response to comments to provide an individual assessment for each suite. A similar and complete individual assessment should be provided in each letter to the manager of each suite.

The letters to each school/daycare facilities should include a complete laboratory report with their individual results and also include a summary table of the results. A generic letter will not suffice since the results and conclusions will differ for each suite.

Please resubmit the proposed schedule and include a date to resubmit the letters and a revised progress report. Please let me know if you would like to discuss any of the issue in this email.

Thanks,
Carolyn

Carolyn J. Casey
U.S. Environmental Protection Agency
5 Post Office Square, Suite 100
Mail code OSRR 07-3
Boston, MA 02109-3912
P 617-918-1368
F 617-918-0368
casey.carolyn@epa.gov

From: Craig Ziady [<mailto:craig@cummings.com>]

Sent: Tuesday, May 22, 2018 3:29 PM

To: Zucker, Audrey <Zucker.Audrey@epa.gov>; Casey, Carolyn <Casey.Carolyn@epa.gov>

Cc: Wainberg, Daniel <Wainberg.Daniel@epa.gov>; Gregory Flaherty <gxf@cummings.com>; Bruce Hoskins <[bhaskins@fslassociates.com](mailto:bhoskins@fslassociates.com)>; Steve Drohosky <sjd@cummings.com>

Subject: RE: sampling results letter

Hi Audrey – Thanks for your note. I had not realized that Bruce was not copied on Carolyn's comments. We have just spoken about them, and we will have a response for you shortly. I'm not sure I understand, however, why the comments on the proposed letter to Mr. Drohosky need to be delayed pending a response to Carolyn's comments. We continue to believe it is important to communicate with our clients about the testing sooner rather than later. Also, the idea that Carolyn's comments are "draft" comments and that some more fulsome comments may still be forthcoming – likely after we have responded to the draft comments – does not present as terribly efficient. We are working hard to be responsive to your requests at the same time we are continuing to advance the significant field activities of the Consent Order – all while keeping our clients apprised of ongoing activities. In this regard, I am working on finalizing a proposed timetable for ecological site activities, and will have that to you today or tomorrow, I believe, under separate cover.

If you have any questions in the meantime, please let me know.

Thank you.

Craig

*Craig J. Ziady
General Counsel
Cummings Properties, LLC
200 West Cummings Park
Woburn, MA 01801
Direct dial: 781-932-7034
Main No.: 781-935-8000
www.cummings.com*

The information contained in this message may be privileged, confidential, and/or protected from disclosure. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by replying to the message and deleting it (and all attachments) from your computer.

From: Zucker, Audrey [<mailto:Zucker.Audrey@epa.gov>]

Sent: Tuesday, May 22, 2018 12:20 PM

To: Casey, Carolyn; Craig Ziady

Cc: Wainberg, Daniel; Gregory Flaherty

Subject: RE: sampling results letter

Craig – Just to be clear, with respect to the draft letter to the day care centers that you provided to us on May 8th, we will provide you with comments after you have addressed the issues in Carolyn's May 16 email below.

Please let me know when we can expect your responses to Carolyn's email. Thanks.

(fyi--Carolyn has been out of the office unexpectedly. So, I just wanted to make sure that you understood that we do plan to comment on your May 8 draft letter.)

Audrey

From: Casey, Carolyn
Sent: Wednesday, May 16, 2018 8:30 AM
To: Craig Ziady <craig@cummings.com>
Cc: Zucker, Audrey <Zucker.Audrey@epa.gov>; Wainberg, Daniel <Wainberg.Daniel@epa.gov>; Gregory Flaherty <gxf@cummings.com>
Subject: RE: sampling results letter

For each suite, the sample results should be provided along with the letter and include an appropriate evaluation of the data. We are still in disagreement with the conclusion that no vapor intrusion is occurring. We should resolve this prior to providing that information to the suite managers/parents.

I also have comments on the progress report and until they are addressed, it would not be appropriate to share the data. Draft comments attached.

From: Craig Ziady [<mailto:craig@cummings.com>]
Sent: Tuesday, May 15, 2018 1:22 PM
To: Casey, Carolyn <Casey.Carolyn@epa.gov>
Cc: Zucker, Audrey <Zucker.Audrey@epa.gov>; Wainberg, Daniel <Wainberg.Daniel@epa.gov>; Gregory Flaherty <gxf@cummings.com>
Subject: sampling results letter

Hi Carolyn – Now that the April 2018 Progress Report is complete, we would like to finalize the letter to the clients in whose premises the indoor air testing occurred. You had requested an opportunity to review this letter, and we provided a draft on May 8 during our meeting. Could you please confirm ASAP whether you have any comments.

Thank you.

Craig

*Craig J. Ziady
General Counsel
Cummings Properties, LLC
200 West Cummings Park
Woburn, MA 01801
Direct dial: 781-932-7034
Main No.: 781-935-8000
www.cummings.com*

The information contained in this message may be privileged, confidential, and/or protected from disclosure. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by replying to the message and deleting it (and all attachments) from your computer.